

## REMARKS

Applicants first thank the Examiner for the telephone interview with the undersigned on September 7, 2006 discussing the pending claims. Applicants note that the present amendments to the claims are in accordance with that discussion.

### Claim Status

Claims 3, 4 and 5 have been amended to recite that the oxygen, sulfur or phosphorous atom of the donor group is a donor atom conjugated with A. Support for such amendments is found in paragraphs [0072] and [0074] of the instant specification as published. *See*, U.S. Patent Application Publication No. 2005/0009109 A1.

Claims 8, 12 and 13 have been amended to recite that when the donor atom is a nitrogen atom, R<sup>1</sup>-R<sup>4</sup> are not all alkyl groups or fluoroalkyl groups. Support for such amendments is found in Fig. 8, compounds 25 and 26 of the instant specification, which have aromatic groups (aryl groups) at R<sup>1</sup> and R<sup>2</sup> rather than alkyl or fluoroalkyl groups.

Applicants respectfully submit that the above amendments do not introduce any new material into the application. With the present amendments, seven claims are pending in the present case, namely, claims 3-5, 8, 10, 12 and 13.

### Claim Rejections - 35 U.S.C. § 112, first Paragraph

Claims 8, 12 and 13 are rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. In particular, the Examiner states that the phrase "wherein when the donor atom is a nitrogen atom, R<sup>1</sup>-R<sup>4</sup> are not alkyl groups or

fluoroalkyl groups" does not have support in the specification. Applicants respectfully traverse this rejection.

Claims 8, 12 and 13 have been amended to recite the phrase "wherein when the donor atom is a nitrogen atom, R<sup>1</sup>-R<sup>4</sup> are not all alkyl groups or fluoroalkyl groups" (emphasis added). As discussed above under the section titled "Claim Status", the instant specification provides exemplary fluorophore compounds 25 and 26, wherein the donor atom is a nitrogen atom, and R<sup>1</sup> and R<sup>2</sup> are aromatic groups (aryl groups) rather than alkyl or fluoroalkyl groups. *See*, Fig. 8 of the instant specification.

In view of the above examples provided in the instant specification, Applicants believe that claims 8, 12 and 13 as presently amended are supported by the instant specification. As such, the rejection of 35 U.S.C. §112, first paragraph, should be withdrawn.

#### **Claim Rejections - 35 U.S.C. § 112, Second Paragraph**

Claims 3-5 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. In particular, the Examiner states that it is not clear whether oxygen, sulfur or phosphorous atom of the donor group of fluorophore compounds of claims 3-5 acts as a donor atom. Applicants respectfully traverse this rejection.

Claims 3, 4 and 5 have been amended to recite that the oxygen, sulfur or phosphorous atom of the donor group is a donor atom conjugated with A. As presently amended, claims 3, 4 and 5 clearly indicate that the oxygen, sulfur or phosphorous atom of the donor group directly links to A.

In view of the above amendments and remarks, Applicants submit that the claims as presently amended are now definite and that the rejection under 35 U.S.C. §112, second paragraph, should be withdrawn.

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This response is filed within two months of the mailing date of the final Office Action. No fee is believed to be due; however, should any fees be required for any reason, the Commissioner is authorized to deduct said fees from Howrey LLP Deposit Account No. 08-3038/12665.0029.NPUS00.

Respectfully submitted,



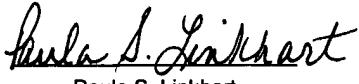
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<p>I hereby certify that this paper or fee is being deposited with the United States Postal Service "EXPRESS MAIL POST OFFICE TO ADDRESSEE" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria VA, 22313-1450.</p>  <p>Paula S. Linkhart</p>	